

# Supreme Court of Kentucky

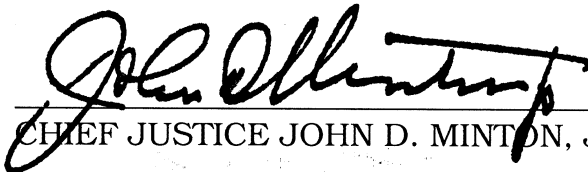
## ORDER

**IN RE: ORDER APPROVING THE LOCAL RULES OF PRACTICE AND  
PROCEDURE FOR THE 23RD JUDICIAL DISTRICT COURT,  
ESTILL, LEE, AND OWSLEY COUNTIES**

Upon recommendation of the Judge of the 23rd Judicial District, and  
being otherwise sufficiently advised,

The Local Rules of Practice and Procedure for the 23rd Judicial District,  
Estill, Lee, and Owsley Counties, are hereby approved. This order shall be  
effective as of the date of this Order, and shall remain in effect until further  
orders of this Court.

Entered this the 20th day of August 2012.

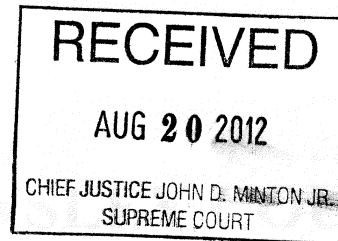
  
CHIEF JUSTICE JOHN D. MINTON, JR.

**RULES OF COURT  
PRACTICE AND PROCEDURE  
COMMONWEALTH OF  
KENTUCKY**

**23<sup>rd</sup> JUDICIAL DISTRICT**

**C** 2<sup>nd</sup> Dist Rules

**ESTILL, LEE and**



**ES**

Effective upon approval of the Supreme Court of Kentucky.  
Submitted for approval this the 17<sup>th</sup> day of August, 2012.

*William "Bo" Leach*  
Judge William "Bo" Leach  
23<sup>rd</sup> Judicial District  
Estill, Lee and Owsley Counties

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RULES OF PRACTICE AND PROCEDURE  
23<sup>rd</sup> JUDICIAL DISTRICT COURT  
ESTILL, LEE & OWSLEY COUNTIES

**RULE 1- INTRODUCTION / ADMINISTRATIVE PROCEDURE**

**1.01 Preface**

Pursuant to KRS 23A.010, RCr 13.02 and SCR 1.040 (3)(a), the following rules are adopted for practice before the District Courts of the 23<sup>rd</sup> Judicial District. Insofar as these rules conflict with any statute or rule promulgated by the legislature or Supreme Court, these rules are hereby superseded. The amended local rules approved by the Supreme Court of Kentucky on July 12, 1996 are hereby repealed.

**1.02 Purpose and Scope**

These rules shall apply to the practice of law in Estill, Lee and Owsley District courts, in all matters civil or criminal in nature, and are intended to supplement the Kentucky Rules of Civil Practice (CR), the Kentucky Family Court Rules of Practice (FCRPP), and Kentucky Rules of Criminal Procedure (RCr).

**1.03 Counties**

The 23<sup>rd</sup> Judicial District shall encompass a three county area: Estill, Lee, and Owsley Counties.

**1.04 Divisions**

Each County's District Court shall be composed of the following divisions:

- a. Criminal
- b. Traffic
- c. Civil
- d. Probate
- e. Juvenile
- f. Adult Mental Health
- g. Small Claims

**1.05 Judges and Trial Commissioners**

The District Court shall be presided over by Judge William "Bo" Leach, and his successors in office. The District Judge may appoint trial commissioners for the counties in which no district judge resides. The commissioners shall have the authority to act in matters for their appointed county alone, unless the Judge or other commissioner cannot be located; in that event the commissioner may take action in matters for another county within the district.

### **1.06 Supreme Court's Family Court Rules of Procedure and Practice**

The 23<sup>rd</sup> Judicial District Court, being without a Family Court sitting in its Circuit, shall be subject to the Family Court Rules of Procedure and Practice (FCRPP) promulgated by the Kentucky Supreme Court.

### **1.07 Effective Date**

All rules shall take effect and be in force upon approval of the Chief Justice of the Supreme Court of the Commonwealth of Kentucky.

### **1.08 Waiver/Modification**

The Judge of the 23<sup>rd</sup> Judicial District may at any time waive enforcement of any of these rules upon good cause and in the interest of justice, provided that said waiver would not violate law or any rules of the Supreme Court of Kentucky. These rules may be modified, added to, and or suspended, at any time upon order of the Court of the 23<sup>rd</sup> Judicial District.

### **1.09 Citation**

These local rules of the 23<sup>rd</sup> Judicial District may be cited by the abbreviation "23LR" followed by the appropriate rule number.

### **1.10 Holidays**

The Court shall be closed pursuant to the Holiday schedule of the Kentucky Administrative Office of the Courts, and any additional days designated as holidays by court order.

## **RULE 2- COURT SCHEDULING / MOTION HOUR / PROCEDURES FOR FILING**

### **2.01A Estill County Sessions**

The Estill District Court shall convene in the Estill Circuit Courtroom, on the first, second, third, and fourth Wednesday of each month as well as the first and third Monday of each month. Should the Estill Circuit Court require the Circuit Courtroom, then the Estill District Court will convene in the Estill District Courtroom. If a Domestic Violence Hearing cannot be heard on a regularly scheduled Domestic Violence Docket due to a holiday or because of time restraints, Domestic Violence Hearings may be heard on any regular docket. The regular court docket times in Estill County are as follows:

First Monday	9:00 a.m.	Domestic Violence
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Third Monday	9:00 a.m.	Domestic Violence, Civil, Probate Matters, and Small Claims
First Wednesday:	9:00 a.m.	Juvenile Court
Second Wednesday:	9:00 a.m.	Criminal/Traffic Pretrial Conferences, Show Cause
Third Wednesday:	9:00 a.m.	Arraignments
Fourth Wednesday:	9:00 a.m.	Jury Trials, Court Trials, Adult Mental Health

In addition to the aforementioned dates, each Monday and Friday shall be set aside, as needed, for jail arraignments. Each jail arraignment docket shall begin at 9:00 a.m. and shall be done by video when available. No pleas of guilt shall be taken on a Jail arraignment docket unless the County Attorney and the Defendant's attorney, if any, are present.

#### **2.01B Lee County Sessions**

The Lee District Court shall convene in the Lee Circuit Courtroom, on the first, second, third, and fourth Tuesday of each month. Should the Lee Circuit Court require the Circuit Courtroom, then the Lee District Court will convene in the Lee District Courtroom. Domestic Violence Hearings may be heard on any regular docket. The regular court docket times in Lee County are as follows:

First Tuesday:	9:30 a.m.	Civil, Probate Matters, and Small Claims
	1:00 p.m.	Arraignments, Show Cause
Second Tuesday:	9:30 a.m.	Criminal/Traffic Pretrial Conferences
Third Tuesday:	9:30 a.m.	Juvenile Court
Fourth Tuesday:	9:30 a.m.	Jury Trials, Court Trials and Adult Mental Health

In addition to the preceding dates, the Lee County Trial Commissioner shall arraign jail inmates as needed. No pleas of guilt shall be taken on an arraignment docket presided over by the trial commissioner.

#### **2.01C Owsley County Sessions:**

The Owsley District Court shall convene in the Owsley Circuit/District Courtroom on the first, second, third, and fourth Thursday of each month. Should the Owsley Circuit Court require said Courtroom, then the Owsley District Court will be rescheduled to a

subsequent time and/or date. Domestic Violence Hearings may be heard on any regular docket. The regular court docket times in Owsley County are as follows:

First Thursday:	9:30 a.m.	Juvenile Dependency, Neglect, and Abuse
	1:00 p.m.	Juvenile Status and Public Offenses
Second Thursday:	9:30 a.m.	Criminal/Traffic Pretrial Conferences, Arraignments
Third Thursday:	9:30 a.m.	Civil, Probate Matters, and Small Claims
Fourth Thursday:	9:30 a.m.	Jury Trials, Court Trials and Adult Mental Health, Show Cause

In addition to the preceding dates, the Owsley County Trial Commissioner shall arraign jail inmates as needed. No pleas of guilt shall be taken on an arraignment docket presided over by the trial commissioner.

## **2.02 Variation From Regular Sessions**

The Estill, Lee, and Owsley District Court shall be courts of continuous sessions. The Court may modify the regular call of the docket upon court order filed of record in the County so affected. The Court may convene on special dates not referenced herein, as justice requires. Preliminary Hearings, Domestic Violence Hearings, or any Emergency Hearing may be set on any date that the Court is in session in any county of the 23<sup>rd</sup> District, if necessary to meet time restraint requirements. In addition, at any time after these rules are adopted, the regular court calendar may be modified. If so modified a court order reflecting the changes will be filed of record with the clerk of the affected county.

## **2.03 Deadline for Filings**

To facilitate the preparation of motion dockets and preparation by the Court, all motions should be in writing and should be filed and served not later than seventy-two (72) hours prior to the scheduled hearing, excluding Saturdays, Sundays and holidays if service is made in person or by electronic means. If copies are served by mail to opposing counsel/parties and the Court, said motion must be filed not later than five (5) days prior to the day of the scheduled hearing.

#### **2.04 Copies Required to be Sent to the Judge's Office**

Copies of all motions filed shall be hand delivered or mailed to the Judge's Office, within the same time frame contemplated in rule 2.03 for service on opposing counsel/parties, default motions, summary judgment motions, and bond modification motions excepted.

#### **2.05 When Motions May be Heard**

Unless otherwise provided, counsel shall set motions to be heard on the regular hearing docket of the respective Court.

#### **2.06 Continuances**

Motions for continuances must be in writing except in cases of emergency or where good cause is shown.

#### **2.07 Motions Concerning Matters to be Tried**

In Jury Trials, dispositive motions, discovery issues, motions to continue and foreseeable evidentiary motions shall be scheduled to be heard on the date of the Pretrial Conference unless another hearing date has been assigned by the Court, and will not be heard on the trial date except for good cause shown.

#### **2.08 Preparation Statement Required**

Any pleading or motion filed with the court shall contain a "prepared by" statement and be signed by the person who prepared the document. Any person who signs a document that another prepares shall be subject to the contempt powers of this court, unless the signee and preparer are attorneys in the same law firm and the signee has been authorized to sign as a preparer. Any Administrative Office of the Court Form which does not have a prepared by line shall be excepted from this rule. Any attorney that assists a party in the preparation of a pleading is providing legal representation and therefore must sign his or her name to said pleading as having prepared the document. Failure to include a preparation statement may result in the judge imposing sanctions on the non-compliant party, which may include striking the pleading or a finding of contempt or any other appropriate sanction within the discretion of the court.

### **RULE 3- DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY**

#### **3.01 Protocol**

The Domestic Violence Protocol is hereby incorporated by reference into these rules and attached in Appendix 1 to these rules. Any subsequent amendments or changes to said protocol shall also be incorporated by reference into these rules.

### **3.02 Pending Circuit Court Action**

Where there is a pending divorce or custody action in Circuit Court, any domestic violence petition shall be heard by the Circuit Court. If either party files a divorce or custody proceeding after a Domestic Violence petition has been filed in District Court, any scheduled hearing in District Court shall be transferred to the first available docket of the Circuit Court sitting in the same county. The emergency protective order shall continue and the summons shall be reissued by the initiating court, pursuant to KRS 403.740(4), for a period not to exceed fourteen days if service has not been made on the adverse party by the date of transfer, or as the court determines is necessary for the protection of the petitioner.

### **3.03 Violation of Domestic Violence Orders**

Without limiting a party's choice of remedies, alleged violations of Domestic Violence Orders should be referred to the County Attorney's Office for possible prosecution. Should the County Attorney's office choose not to prosecute or the alleged victim decides they would rather proceed by way of a contempt proceeding, then in that event the alleged violation may be initiated by a motion to show cause and be placed on the District Court docket for contempt proceedings. Nothing in this rule shall affect law enforcement's ability to bring a criminal charge for a violation of a protective order committed in his or her presence.

## **RULE 4- PATERNITY**

### **4.01 When Heard**

All paternity matters shall be docketed to be heard on the regular Juvenile docket unless the Court gives leave to set the matter on another docket.

### **4.02 Default/ Summary Judgment Motions**

Motions for default judgments and summary judgments, as provided by the Rules of Civil Procedure, shall require a hearing and be docketed in accordance with rule 4.01.

### **4.03 Agreed Judgments**

Agreed Judgments may be tendered to the Court for Judicial approval. However, any tendered Agreed Judgment may be docketed for a hearing in the Court's discretion.

### **4.04 Genetic Testing**

Pursuant to FCRPP 15, in all cases in which an answer of denial is filed by the respondent or a request for genetic testing is made, and upon motion by any party, a pretrial order will be entered by the Court requiring both parties and the child to submit to genetic tests in accordance with KRS 406.081 and KRS 406.091.

#### **4.05 Access to Paternity Files**

Until such time as paternity cases are no longer deemed confidential proceedings under Kentucky law, the District Clerk shall restrict access to paternity cases to the parties, the Commonwealth, and any attorney that a party has retained. Counsel for a party shall not be permitted access to a paternity file unless he or she files an Entry of Appearance. In the alternative, an attorney may access a paternity file by producing to the District Clerk a notarized authorization signed by a party.

Additionally, an attorney appointed by the Court to serve as a Warning Order Attorney or as an attorney for an incarcerated or incompetent individual may have access to the file.

### **RULE 5- DEPENDENCY, NEGLECT and ABUSE**

#### **5.01 Time For Filing**

All dependency, abuse and neglect pleadings, reports or petitions, shall be filed seventy-two hours (72) in advance of the docket, excluding weekends and holidays, unless good cause is shown and advance permission from the Judge is given, emergency hearings excepted.

#### **5.02 Authorized Petitioners**

- A. All petitions shall be filed in accordance with FCRPP 20 and shall be submitted to the County Attorney, who shall check the petition for legal sufficiency. If the petition is rejected by the county attorney, it shall be submitted to the District Judge for determination of legal sufficiency. If the Judge determines that the petition fails to state grounds for action pursuant to KRS Chapter 620, the petition shall be dismissed. If the petition is approved, the County Attorney or Judge, as appropriate, shall initial the petition for filing. A copy shall be distributed to the County Attorney assigned to prosecute dependency actions and the original shall be filed with the office of the appropriate Circuit Court Clerk.
- B. Any petition filed with this Court shall comply with the following conditions:
  - 1. Citations to specific statute and factual allegations relied upon in asserting the Court's jurisdiction; and
  - 2. Full information concerning the child's parents and their address(es). The petitioner shall make diligent efforts to locate the child's parents.

#### **5.03 Procedure When a Parent/Guardian Cannot Be Located**

- A. When a biological parent, legal guardian, or other person exercising custodial control cannot be located in a juvenile case it shall be sufficient that a person authorized to serve a summons on the individual serves the absent parent, guardian, or other custodial person's nearest known adult relative pursuant to

KRS 620.070(2) or by constructive service through a warning order attorney as authorized by the CR 4.07.

- B. The judge may permit the Temporary Removal Hearing or the adjudicatory hearing to go forward when the non-custodial parent has not been served in accordance with FCRPP 18(1), if it is established on the record that petitioner has made diligent efforts to serve all other parties including initiating contact with the Child Support Division of the County Attorney's Office in an attempt to locate any absent parent. The petitioner shall make continuing diligent efforts after the hearing to locate and notify all persons who were not served.

#### **5.04 Guardian Ad Litem/Parent's Attorney**

- A. Each District Court Clerk of the 23<sup>rd</sup> Judicial District shall keep a roster of attorneys who wish to serve as Guardians Ad Litem or court appointed parent's attorneys. This roster need not be formal and may be kept in any manner the Clerk's office desires, provided it contains the attorney's address and phone number. As used in these rules a court appointed parent's attorney is defined as an attorney for an indigent parent or legal guardian.
- B. Any attorney regularly practicing in the 23<sup>rd</sup> Judicial District may be eligible to serve as a Guardian Ad Litem or parent's attorney provided they have notified the District Clerk's Office of their desire to serve and have been placed on the roster referenced in 5.04(A).
- C. After a Guardian Ad Litem or parent's attorney accepts an appointment, representation shall continue through all stages of the dependency, neglect, abuse, or termination of parental rights and adoption proceedings. All parties shall be served with notice of an attorney's request to withdraw.

#### **5.05 Permanency Hearings**

No permanency hearing shall be held unless and until the child's parents, foster parents, preadoptive parents, or relatives providing care to the child; court-appointed special advocate; foster care review board member assigned to the case; attorney for the child, and attorney for the parent, if any, have been given notice of the hearing as required by KRS 610.125. Upon the filing of the notice of the permanency hearing with the clerk, the clerk shall mail the notice to the persons named in the form. Failure to provide the court with names and addresses of the persons identified above by the Cabinet or Department of Juvenile Justice prior to a permanency hearing so the court may notify said parties will result in the matter being passed to the first juvenile court date which satisfies the notice requirements of the statute. This shall be the rule even if the continuance places the hearing outside the twelve month date required for the permanency hearing. Due Process mandates all interested parties as set out by statute receive proper notice of the hearing.

## **5.06 Proposed Adjudication/Dependency Orders**

Prior to or at the beginning of any adjudication or dependency hearing, the Cabinet, and/or the County Attorney's Office shall tender to the court a completed proposed order on the appropriate Administrative Office of the Court form. Any parent's attorney or Guardian Ad Litem may also submit a proposed order at their discretion.

## **5.07 Prevention Plans**

Pursuant to FCRPP 39, the Cabinet shall file a copy of the Case Plan, any Visitation Agreement and any Prevention Plan with the Court and a copy must be provided to all parties or their counsel.

# **RULE 6- JUVENILE STATUS/PUBLIC OFFENSES**

## **6.01 Conditions While Case is Pending**

Every juvenile charged with a status and/or public offense shall be required to comply with the court's orders while his or her case is pending, which orders will include, but not be limited to, the requirement that he or she obey all rules of home and school, have no unexcused absence and/or tardies, and commit no new offense or violation. The juvenile will be notified of these or any other additional requirements at their arraignment. Failure to comply with a court order could subject the Juvenile to detention in a Juvenile Detention Facility.

## **6.02 Procedure on Violation of Court Order**

Should a Juvenile fail to comply with a court order, the parent, school, victim, Cabinet, or Department of Juvenile Justice shall contact the County Attorney's Office, who upon review of the allegation may set the matter for a review or contempt hearing on any docket, juvenile or otherwise in their discretion. Should the matter be docketed on a non-confidential docket, it should be noticed for 11:45 a.m. so court may dismiss the general public for lunch so that the matter may be heard confidentially.

# **RULE 7- MISCELLANEOUS RULES RELATING TO FAMILY LAW PRACTICE**

There are currently no miscellaneous rules relating to family law practice in the 23<sup>rd</sup> Judicial District.

# **RULE 8 - CIVIL PRACTICE**

## **8.01 Style of Documents**

The style of all pleadings, briefs, motions, and judgments shall include the action number and the designation of Estill, Lee or Owsley District Court.

## **8.02 Motions**

Motions may be made orally during the progress of the trial in chief, but all other motions must be in writing. Motions for default judgment, summary judgment, and judgment on the pleadings shall be noticed for a hearing and shall be filed along with affidavits, exhibits, and/or memorandum of authorities relied upon. Moving parties must personally appear or have legal counsel appear in their stead.

## **8.03 Special Bailiffs**

The Court for good cause may appoint special bailiffs to serve a particular process order. He or she shall be compensated as prescribed by law. KRS 454.145. Parties seeking to have a special bailiff appointed shall file an affidavit detailing with specificity the need for a special bailiff, including but not limited to the number of times the Sheriff's Department or other local agency has attempted service of process.

## **8.04 Forcible Detainers**

Petitions for forcible detainers may be docketed on any docket, but no sooner than three days after the petition is filed.

## **8.05 Civil Rule 77.02 Docket**

At least once a year, the Clerk shall review all pending actions on the docket. The Clerk shall cause a written notice to be given to each attorney of record, or litigant if pro se, of every case in which no pre-trial step has been taken within the last year, that the case will be dismissed without prejudice in thirty (30) days for want of prosecution except for good cause, and the date the matter will be docketed for dismissal. These matters shall be placed on the next regular civil docket which is at least thirty (30) days after the date of the clerk's notice, for dismissal. The Court shall enter an Order dismissing each case without prejudice at Plaintiff's cost in which no verified answer or an insufficient answer to the notice is made. CR 77.02(2).

## **8.06 Tendered Orders**

After a hearing in which one party agrees to tender an order on any matter, the tendered order must contain a prepared by line for the tendering party and a signature line indicating the opposing party has seen the proposed order. This requirement may be waived by the non-tendering party on the record or in writing. The signature of the non-tendering attorney may be procured by facsimile.

## **RULE 9- PROBATE PRACTICE**

### **9.01 Petitions**

A. Petitions for Probate of Will, Administration of Estate, and/or Petition to Dispense with Administration may be placed on any docket on regular court days.

B. Parties may use AOC provided forms in probate practice. However before a matter may be docketed for a probate hearing, the moving party must clearly elect whether they are requesting a will be probated, an intestate estate be opened, or that a petition to dispense with administration be granted. The parties may change the relief requested at any time before the hearing or after the hearing, should circumstances change and justice so require. The moving party may ask leave to file a petition to probate a will in conjunction with a petition to dispense with administration in situations in which the estate qualifies for a dispense with administration but the movant none the less wishes to have the will recorded in the County Court Clerk's Office.

C. All Petitions to Dispense with Administration shall be heard on the record. The Petitioner need not appear if represented by counsel.

### **9.02 Matter other than Petitions Requiring Hearing**

All other probate matters requiring a hearing must be noticed on the regular civil docket.

### **9.03 Procedure on Inactive Probates**

When a probate matter becomes delinquent for a settlement, inventory, or any other scheduled event, this court will send a notice of the delinquent matter to the address of the attorney, petitioner, and/or fiduciary referenced in the Court's file. If there is no response to this notice and more than one year has passed since the opening of the Estate then the probate matter may be dismissed by the Court's motion pursuant to Civil Rule 77.02, in addition to any other authorized sanctions this Court may choose to pursue. The Clerks shall review all probates at least once a year, and in those cases where no action has been taken in over twelve (12) months, the Clerk shall cause a written notice to be given to each attorney of record, or petitioner/fiduciary if pro se, that the case will be dismissed without prejudice in thirty (30) days for want of prosecution except for good cause, and the date the matter will be docketed for dismissal. These matters shall be placed on the next regular civil docket which is at least thirty (30) days after the date of the clerk's notice, for dismissal. The Court shall enter an Order dismissing each case without prejudice at Petitioner's cost in which no verified answer or an insufficient answer to the notice is made.

### **9.04 Probates Shall be Prefiled**

All probate matters must be prefiled at least one day prior to court, unless a waiver is granted by the Judge.

## **RULE 10-TRAFFIC/CRIMINAL PRACTICE**

### **10.01 Persons Authorized to Take Criminal Complaints**

No Criminal Complaint may be filed unless first notarized by a person authorized by this Court to witness a criminal complaint. Such persons shall be commissioned by Court Order to receive criminal complaints and be given an oath of office. Such persons shall be in the employment of the County or Commonwealth's Attorney's office, and their authorization to take complaints shall terminate immediately upon leaving said employment.

### **10.02 Shock Probation**

Motions for shock probation shall conform with KRS 439.267 before the matter will be docketed for a hearing.

### **10.03 Continuances**

Motions for continuances of any pending cases shall not be granted for the prosecution or the defense absent a showing of good cause.

### **10.04 Prepayable Offenses**

A. Anyone charged with an offense that is pre-payable, may appear in the Clerk's office, enter a plea of guilty, and pay the fine and costs specified without an appearance in Court.

B. If a prepayable offense is combined with a non-prepayable offense, the clerk may not accept pleas or payments on the prepayable offense unless the County Attorney's Office has tendered an order or action slip requesting a dismissal of the remaining non-prepayable charges.

### **10.05 Search Warrant Procedure**

A. Copies of all search warrants and supporting affidavits shall be filed in the Clerk's office pursuant to RCr 13.10. An executed copy shall be filed by the executing officer in the Clerk's office within twenty-four (24) hours of execution. If an arrest results from the warrants execution, the above papers shall be placed in the case jacket of the defendant.

B. Supporting affidavits may be notarized by any person authorized to notarize criminal complaints within the 23<sup>rd</sup> Judicial District. Search Warrants may only be signed by a Judge, Authorized Commissioner, or Circuit Clerk after having been notarized by the authorized notary.

C. Search warrants may be presented to the District Judge or Trial Commissioners for his/her signature by facsimile.

**D.** Search Warrants presented to the District Court shall be first submitted to the District Judge. If the District Judge cannot be found then the Circuit Judge should be contacted and his/her search warrant protocol should be followed. If the District Judge and the Circuit Judge are out of the district or cannot be found, then in that event, law enforcement may contact a Trial Commissioner. If the Judges and Trial Commissioners cannot be found then in that event the search warrant may be presented to the Circuit Clerk for the county where the warrant is to be executed, according to procedures established by the Kentucky Revised Statutes.

**E.** A search warrant will only be granted to a Law Enforcement official with arrest powers.

#### **10.06 E-Warrants**

All criminal complaints should be submitted to the Judge or Trial Commissioner for authorization via the E-Warrant system. In case of emergency or unavailability of the E-Warrant system due to servicing or technical problems, the County Attorney's Office may present a paper warrant for signature. However, as soon as practical, the paper warrant shall be entered into the E-Warrant database.

### **RULE 11- JURY TRIALS**

#### **11.01 Cases to be Tried if Jury Panel is Called**

Due to the volume of Jury Trials and the need to maintain public confidence, respect, and participation when a matter is set on the Jury Trial Docket, it should be expected by the parties that the matter will be tried. Continuances shall be granted only upon good cause being shown. Every effort shall be made to avoid inconvenience to the Jury Panel. If a Jury Panel is called, no pleas or settlements will be accepted on the day of trial except upon showing of good cause. Settlement after a Jury Panel is summonsed may result in the parties being assessed the cost of the Jury.

#### **11.02 Jury Instructions**

Initial jury instructions shall be tendered to the Court by e-mail, in a format compatible with the computers of the District Judge's office, at least twenty-four (24) hours prior to the scheduled trial. Parties may offer amendments to their proffered instructions at the conclusion of both side's proof. Any questions regarding formatting compatibility may be addressed to the District Judge's office.

## **RULE 12- BONDS**

### **12.01 Conditions**

- A. Any person released on bond or on their own recognizance by the District Court shall be subject to the following standard conditions:
  - i. No new arrests or violations of the law;
  - ii. No contact with illegal drugs or alcohol;
  - iii. No contact with the complaining witness and/or alleged victim
- B. Pre-trial Bond conditions shall terminate immediately upon plea, conviction or dismissal of the pending charges.

### **12.02 Persons Who Must be Interviewed by Pre-trial Services**

No Defendant charged with a bailable offense may post bond without first being interviewed by Pre-Trial Services, unless excepted by statute.

### **12.03 Jurisdiction over bond prior to Indictment**

District Court shall retain jurisdiction on all matters concerning bond in felony cases after the preliminary hearing and before indictment.

## **RULE 13- FINES, COURT COSTS, AND RESTITUTION**

### **13.01 Procedure on Paying Fine and Costs**

Any person assessed a fine and/or court cost shall be assigned a show cause court date by which said fine and/or cost must be paid in full. If the fine and/or cost remains unpaid by the show cause date, then in that event the person shall be required to appear in court to show cause as to why they should not be held in contempt of court. The Defendant may make payment in full or in part any day prior to his/her show cause date. The Defendant may elect to make payments toward his/her outstanding balance; however the payments must be a minimum of twenty (\$20.00) dollars. If the Defendant makes at least the minimum payment, then the Defendant shall not be required to appear in court on his or her show cause date. The clerk shall continue the show cause date for the following month and may remove the Defendant's name from the current month's show cause docket. Should the Defendant not make a minimum payment prior to his/her scheduled show cause date, then the Defendant shall be required to appear in court as scheduled and show cause why he or she should not be incarcerated for non-payment. Payments may not be made on the day of court without court approval. This rule shall not apply to any person that has been specifically found indigent and exempt from paying fines and cost.

## **RULE 14- MISCELLANEOUS RULES**

### **14.01 Proper Attire Required**

- A. All attorneys shall be appropriately dressed in business attire when appearing before the court.
- B. No person appearing before the Court may wear a hat, unless required for medical or religious purposes.
- C. The Court shall not establish an official dress code for Litigants or Defendants coming before the court. However, if a Litigant or Defendant is dressed in an inappropriate manner, the court may not hear the case until the person is dressed appropriately, in the Court's sound discretion. This shall not limit any contempt remedies the Court may have concerning inappropriate attire.

### **14.02 No Weapons or Contraband Allowed in Court Room**

No weapons or contraband shall be allowed in the Courtroom, the Circuit Clerk's Office or the District Judge's Office. This includes concealed weapons unless those people have a Judicial Conceal and Carry Permit or are in Law Enforcement. Contraband shall include illegal drugs or alcohol. The Courtroom, Judge's Office, and Clerk's Office shall be designated as restricted areas. Any person entering these restricted areas will be subject to a search of their person and/or property on their persons and any weapons and/or contraband found may be subject to seizure and forfeiture to the Court and possible criminal charges filed.

### **14.03 Filming or Taping of Court**

Anyone wishing to video, film, tape, digitally record, or take pictures of any court proceedings must first be granted permission from the District Judge prior to the proceeding they wish to record. This includes all news media. Authorized cameras and recording devices must be set up prior to the start of Court. In cases where multiple media outlets are requesting access to record a proceeding, this Court reserves the right to allow only one camera in the Courtroom and require the feed or video to be shared among the media outlets.

### **14.04 Conditional Entry of Appearances Not Allowed**

No conditional entry of appearances shall be allowed in any Criminal or Juvenile Status or Public Offense matters.

### **14.05 Rules Enforceable Through Contempt Powers**

Any rule listed herein may be enforced by the Court's contempt powers.

## **APPENDIX 1**

### **TWENTY-FOUR HOUR ACCESSIBILITY TO EMERGENCY PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION DOMESTIC VIOLENCE PROTOCOL 23<sup>rd</sup> JUDICIAL CIRCUIT AND DISTRICT ESTILL, LEE AND OWSLEY COUNTIES**

Pursuant to KRS 403.735, and in compliance with Family Court Rules of Procedure and Practice (FCRPP) Section IV, this local domestic violence protocol is established to ensure twenty-four hour accessibility to emergency protective orders and to establish written procedures for domestic violence matters in which there may be joint jurisdiction between the circuit/family and district courts.

#### **I. Uniform Protocol for Processing Cases**

- A. Circuit court clerks shall process domestic violence cases in accordance with the procedures set forth in the "Domestic Violence Proceedings" section of the Kentucky Circuit Court Clerk's Manual.
- B. All cases will be assigned a "D" case number with the appropriate trailer number within the court case management system and may not be consolidated with any other case type.
- C. Domestic violence matters may be reassigned from the district court division to circuit/family court when there is a dissolution/custody proceeding pending. Therefore, if an EPO is issued and the clerk has discovered there is a pending dissolution/child custody case pending in the 23<sup>rd</sup> Judicial Circuit, the clerk shall file the petition as a "D" case and assign it to the Circuit Judge if a Circuit Court Motion Hour/Rule Day is held within the county of the issuance of the EPO within 14 days of its issuance. If no Circuit Court Motion Hour/Rule Day is to be held within 14 days of issuance of the EPO, the case shall be assigned for a hearing in the District Court. The District Judge shall then continue the case not to exceed 14 days until the next Motion Hour/Rule Day of the Circuit Court in the county.
- D. No jurisdiction shall adopt a blanket "no-drop" policy. Domestic violence cases are civil matters within the purview of CR 41.01.
- E. Domestic violence cases shall be reassigned or transferred to another circuit under the following circumstances:

If it is discovered that a dissolution or child custody proceeding is pending in another county in the Commonwealth, the District Court shall enter such orders as are necessary to protect the parties and transfer the case to the county in the Commonwealth where the dissolution or child custody case is pending, consistent with FCRPP 12, which requires that an emergency protective order shall continue and the summons shall be reissued by the initiating court, pursuant to KRS 403.740(4), for a period not to exceed fourteen days if service has not been made on the adverse party by the date of transfer, or as the court determines is necessary for the protection of the petitioner. Thereafter, reissuance of the summons shall occur as needed in the court of transfer.

## II. Twenty-four Hour Accessibility

- A. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **during** regular business hours:

Estill County Circuit Court Clerk's Office  
Lee County Circuit Court Clerk's Office  
Owsley County Circuit Court Clerk's Office

- B. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **after** regular business hours and weekends:

All sworn officers of any police agency  
The Cabinet for Health and Family Services staff  
The Circuit Court Clerks' Offices and their deputies  
Representatives of Centers for Women and Families of Spouse Abuse  
Jailers and Deputy Jailers located within the 23<sup>rd</sup> Judicial Circuit and District

- C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:

The clerk/deputy clerk will determine if a dissolution or child custody action is pending and then deliver the petition to the District Judge, Trial Commissioner, or Circuit Judge if no District Judge or Trial Commissioner is available.

- D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to:

The agency/officer taking and verifying the petition shall deliver the petition to the District Judge, Trial Commissioner, or Circuit Judge if no District Judge or Trial Commissioner is available.

- E. Petitions will be reviewed within an hour of presentation to a judge or trial commissioner unless it is impossible due to the unavailability of a judge or trial commissioner.

- F. The schedule for domestic violence hearings is as follows:

(1) District Court:

- a. Estill County – the first, second, third and fourth Wednesday of each month and the third Friday of each month at 8:30 A.M.;
- b. Lee County – the first, second, third and fourth Tuesday of each month at 9:30 A.M.;
- c. Owsley County - the first, second, third and fourth Thursday of each month at 9:30 A.M.

(2) Circuit Court:

- a. Estill County – the Tuesday of the first full week of each month, the fourth Friday of each month, and the first Thursday of each month at 9:30 A.M.;

- b. Lee County – the Wednesday of the first full week of each month and the third Friday of each month at 9:30 A.M.;
- c. Owsley County - the first Friday of each month and the Monday of the first full week of each month at 9:30 A.M.

### III. Contempt Proceedings

- A. Pursuant to KRS 403.760, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive.
- B. Petitioners seeking to initiate contempt proceedings should contact:  
  
The Circuit Court Clerks' Office in the county where an EPO/DVO has been issued.
- C. No petitioner may be held in contempt for failing to appear at a domestic violence hearing or to prosecute a criminal violation of a protective order.

All general orders, forms, policies and procedures relating to domestic violence within the judicial circuit are attached to this protocol and incorporated by reference.

The above protocol is adopted by all judges in the circuit/district:

William "Bo" Leach 4/12/12  
Name/Date

N. [Signature] 4/2/12  
Name/Date